

Serial No. 09/970,477  
Amdt. dated October 22, 2003  
Reply to Notice of Non-Responsiveness  
of September 22, 2003

Docket No. 2629-4005US4

### **REMARKS/ARGUMENTS**

Claims 8-12 are pending in this application.

#### **Double Patenting Rejection**

1. The Examiner contends that the June 13, 2003 reply was not fully responsive to the prior Office Action because "Applicants have neither indicated that they will file a terminal disclaimer upon notification of allowable subject matter, nor provided any arguments or reasons why the rejection is believed to be improper" (Notice of 9/22/03, page 2). However, applicants respectfully point to the June 13, 2003 response at page 11, paragraph 9 under Double Patenting Rejection where applicants indicate that should claims be allowed, applicants would consider filing a terminal disclaimer at that time.

For clarification, applicants agree to file a terminal disclaimer once claims 8-12, which have been rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-5, respectively, of U.S. Patent No. 6,355,424B1, are in condition for allowance, all but for the double patenting rejection.

### **AUTHORIZATION**

The Commissioner is hereby authorized to charge any additional fees which may be required for the timely consideration of this amendment under 37 C.F.R. §§ 1.16 and 1.17, or credit any overpayment to Deposit Account No. 13-4500, Order No. 2629-4005US4.

Respectfully submitted,  
MORGAN & FINNEGAN, L.L.P.

Dated: October 22, 2003 By:   
Evelyn M. Kwon  
Registration No. 54,246

#### **Correspondence Address:**

MORGAN & FINNEGAN, L.L.P.  
345 Park Avenue  
New York, NY 10154-0053  
(212) 758-4800 Telephone  
(212) 751-6849 Facsimile